IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3234 of 2003

For Approval and Signature:

Hon'ble MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

REGIONAL DIRECTOR OIL & NATURAL GAS CORPN. LTD.

Versus

BHARTIYA KARMACHARI SANGH

Appearance:

1. Special Civil Application No. 3234 of 2003

MR RAJNI H MEHTA for Petitioner No. 1

MR NR SHAHANI for Respondent No. 1

NOTICE SERVED BY DS for Respondent No. 2-5

UNSERVED-REFUSED (N) for Respondent No. 6

CORAM : MR.JUSTICE P.B.MAJMUDAR

Date of decision: 19/06/2003

ORAL JUDGEMENT

#. Mr.Mehta seeks leave to delete respondent nos. 2 to 6 from the present proceedings. Permission is granted.

Respondent nos. 2 to 6 are accordingly allowed to be deleted from the present petition.

#. Rule to respondent No.1. Mr.Sahani waives service of rule for respondent No.1. With the consent of the parties, the matter is taken up for final hearing today.

#. The petitioner Corporation has challenged the interim order passed by the Industrial Tribual Vadodara in Reference (ITC) No.42 of 1999. By the impugned order, the Tribunal directed the petitioner Corporation not to terminate the services of the concerned employees during the pendency of the reference. The Tribunal also directed that the new Contractor should also continue the aforesaid set of employees at the time of accepting the new contract. The Tribunal also directed the parties to proceed with the matter immediately and time bound programme is also given by the Tribunal. The Tribunal also allowed the application submitted by the respondent at Exh.25 by which 21 employees, whose services were already terminated in April 1996, were ordered to be continued in service as per the seniority. The aforesaid order is impugned at the instance of the petitioner by way of this petition.

#. At the time of hearing of this petition, Mr.Mehta, learned advocate for the petitioner Corporation, has submitted that those employees, who were already in service at the relevant time when the new contract was given, have been continued in service by the new contractor, as, the new contractor has taken over the work from 1/4/2003 and that the new contractor has also continued the existing employees who were in service at the relevant time during the tenure of the earlier contractor. He submitted that the new contractor is specifically informed about the interim order passed by the Tribunal. Mr.Mehta, however, submitted that so far as the direction of the Tribunal below Exh.25 is concerned, the said interim order is required to be set aside, as, services of concerned 21 employees were already terminated as back as in April, 1996, and, therefore, there is no question of informing the new contractor to take them back in service.

#. Mr.Sahani has frankly submitted that he is not pressing his claim qua aforesaid 21 employees on whose behalf the application Exh.25 was submitted before the Tribunal. It is required to be noted that services of the said employees were already terminated and they were no longer in service even at the time of making reference. In view of this concession of Mr.Sahani, the

order of the Tribunal is required to be modified appropriately.

#. The order of the Tribunal insofar as granting the interim order in connection with existing set of employees is concerned, no interference of this Court is called for in a petition filed under Article 227 of the Constitution of India. However, the order of the Tribunal insofar as it relates to 21 employees whose services were already terminated since April 1996 and who were not in service at the time of making reference before the Tribunal is concerned, the same is required to be interfered with by this Court by allowing this petition partly. Rest of the order of the Tribunal is maintained. It is, however, clarified that, in future, if new contractors are appointed after the expiry of the tenure of the existing contractors and at that stage, if such question comes up for decision, that question can be decided by the Tribunal on its own merits without being influenced by the order, which is impugned in the present petition.

#. Mr.Sahani has fairly submitted that, he will make necessary application before the Tribunal for joining the new contractor, who has taken over the work from the earlier contractor with effect from 1/4/2003, as party to the pending reference. He states that, he will make such application on or before 10/7/2003. If any such application is preferred, the Tribunal shall permit respondent No.1 to join the new contractor as party to the pending references.

#. Since it is pointed out to the Court that about four references are pending before the Industrial Tribunal, Vadodara and even otherwise since the Tribunal has already given time bound programme for completing the matters within the stipulated time and it is also pointed out to the Court that all the connected references are consolidated by the Tribunal and they are all heard together, it is directed that all such references, being Reference (ITC) NO.42 of 1999 and other connected references be heard together and be disposed of, latest by 31/12/2003. Learned advocates for both the sides have assured the Court that neither the Union nor the Management will ask for time and they will cooperate for quick disposal of the matters before the Tribunal. Under these circumstances, the Tribunal may decide the aforesaid references within the stipulated time so that the issue involved in the proceedings may be disposed of finally. Rule is partly made absolute as indicated above with no order as to costs.

Writ of this order be sent to the Industrial Tribunal forthwith for compliance.

(P.B.Majmudar,J)

(pathan)